

**Thomas Jefferson to James Monroe, September 2,  
1802, from Thomas Jefferson and James Monroe  
Correspondence, Transcribed and Edited by Gerard W.  
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**Thomas Jefferson to James Monroe**

Monticello Sep. 2. 1802

Dear Sir

I should have rode to your house yesterday to speak with you on the subject of your note of the preceding day but that I rendered it doubtful whether you would be gone to Richmond.

The claim of Maryland to the south branch counters the words of her charter which granted to the median “*primus fontes flumins de Potomac*” the word *primus* there meaning principal or ...It is impossible to give it any other reasonable construction. This was at first uncertain, but it has been since fixed 1. by the uninterrupted course of jurisdiction of Maryland & Virginia to the North branch. 2. by a judicial decision between Lords Baltimore & Fairfax founded on an actual survey of the two streams and fully reported in one of the Chancery reporters. Dorsey I believe.or Watson 3. by the ...that in early times the N. branch had the most water & even now may have.

4. by the convention since the revolution settling their boundary. ( I do not think I have ever seen them, but presume Colo Mason has worded it with attention) 5. by occupation & limitation of time. For tho' acts of limitation are generally by the civil power, yet there is also among nations founded in reason and practice, and ..a right rendered indefensible by

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long possession. I have understood that the late George Mason had collected materials, & made notes for the justification of the rights of Virginia. They must be valuable if they can be got. It is a great subject, and ought to be put into the hands of an able lawyer & diplomacist; and no gratification or excitement spared to engage his utmost industry. The Constitution of the US. gives them a right to decide the decisions of such a case but they have made no provision. The proposition of Maryland therefore to arbitrate, tho' it appears candid is cunning. Because it proposes to authorise a power to dismember our state, where no such power exists, perhaps it might be prudent to agree to enter into a discussion with Maryland on the ground of their claim, in which I am persuaded the world may be made to see that reason is entirely with us. After such a demonstration we may more justifiably refuse to submit our right to a decision which cannot be divested of party & state prejudice; and it would be much more difficult to procure from the legislature the establishment

of a judicature, which would in fact have power to cut up states as they pleased for there would always be found pretences of some sort, and this judicature would be the judges of them.

With respect to the Tennessee line, it depends exactly on the same question as that settled with N. Carolina, to wit the location of the line of latitude 36 30' which needs nothing but a good instrument & good observer. I think that Tennessee has applied to the US> for a settlement of the same line as it respects them, and also to Kentucky. In imagine we had better made a common business of it. I do not recollect what measures have been taken by the US. toward settling it; but will enquire on my return.

I have written to Mr. King on the subject of our blacks, and hope to have his answer in time to communicate to you for the next session of the legislature; but will certainly send you a copy of my letter.

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As I shall not leave this for three weeks yet, I shall certainly see you here, and converse more fully on the subjects of this letter. Accept my friendly and respectfull salutations, Th. Jefferson

FC (Jefferson Papers, Library of Congress).